

House File 2415 - Introduced

HOUSE FILE _____
BY TYMESON, KAUFMANN,
and GRASSLEY

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to eminent domain authority exercised for certain
2 lake projects and including effective date and applicability
3 date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6245HT 82
6 sc/rj/8

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1 1 Section 1. Section 6A.22, subsection 2, paragraph c,
1 2 subparagraph (1), Code 2007, is amended to read as follows:
1 3 (1) If private property is to be condemned for development
1 4 or creation of a lake, only that number of acres justified as
1 5 reasonable and necessary for a surface drinking water source,
1 6 and not otherwise acquired, may be condemned. ~~In addition~~
1 7 Prior to making a determination that such lake development or
1 8 creation is reasonable and necessary, the acquiring agency
1 9 shall ~~conduct a review of~~ demonstrate by clear and convincing
1 10 evidence that no other prudent and feasible alternatives to
1 11 alternative for provision of a drinking water source prior to
1 12 making a determination that such lake development or creation
1 13 is reasonable and necessary exists. Development or creation
1 14 of a lake as a surface drinking water source includes all of
1 15 the following:
1 16 (a) Construction of the dam, including sites for suitable
1 17 borrow material and the auxiliary spillway.
1 18 (b) The water supply pool.
1 19 (c) The sediment pool.
1 20 (d) The flood control pool.
1 21 (e) The floodwater retarding pool.
1 22 (f) The surrounding area upstream of the dam no higher in
1 23 elevation than the top of the dam's elevation.
1 24 (g) The appropriate setback distance required by state or
1 25 federal laws and regulations to protect drinking water supply.
1 26 For purposes of this subparagraph (1), "number of acres
1 27 justified as reasonable and necessary for a surface drinking
1 28 water source" means according to guidelines of the United
1 29 States natural resource conservation service and according to
1 30 analyses of ~~surface~~ drinking water capacity needs conducted by
1 31 one or more registered professional engineers using standards
1 32 alternative to the federal guidelines. Any guidelines or
1 33 analyses related to future drinking water capacity needs shall
1 34 be based on the current rate of drinking water usage in the
1 35 area to be served by the surface drinking water source.
2 1 Guidelines relating to drinking water capacity needs in
2 2 time of drought shall not be used in any analysis performed
2 3 pursuant to this subparagraph (1). An analysis performed
2 4 pursuant to this subparagraph (1) shall include information on
2 5 groundwater resources in the area and the potential for the
2 6 use of such resources to meet drinking water capacity needs.
2 7 A second review or analysis may be requested by any
2 8 landowner affected by the proposed condemnation action, and
2 9 the engineer shall be selected by a committee of private
2 10 landowners affected by the proposed condemnation action. The
2 11 acquiring agency shall be responsible for paying the fees and
2 12 expenses of such an engineer.
2 13 A landowner affected by the proposed condemnation action
2 14 may request a public hearing regarding the influence of a
2 15 federal agency on the lake creation or development project, on
2 16 the proposed condemnation actions related to the project, and
2 17 on the use of federal guidelines in analyzing drinking water
2 18 capacity needs. The hearing shall be conducted by a person

2 19 who is not involved with the lake creation or development and
2 20 the services of such person in conducting the hearing shall be
2 21 paid by the acquiring agency.

2 22 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
2 23 immediate importance, takes effect upon enactment and applies
2 24 to projects or condemnation proceedings pending or commenced
2 25 on or after that date.

2 26 EXPLANATION

2 27 This bill makes changes relating to eminent domain
2 28 authority in relation to development or creation of a lake.

2 29 The bill provides that, prior to making a determination
2 30 that creation or development of a lake is reasonable and
2 31 necessary, an acquiring agency must demonstrate by clear and
2 32 convincing evidence that no other prudent and feasible
2 33 alternative for provision of a drinking water source exists.

2 34 The bill also provides that when determining the number of
2 35 acres necessary for a surface drinking water source, any
3 1 guidelines or analyses related to future drinking water
3 2 capacity needs shall be based on the current rate of drinking
3 3 water usage in the area to be served by the surface drinking
3 4 water source. The bill provides that an engineer conducting
3 5 an analysis of drinking water capacity shall use standards
3 6 alternative to the federal guidelines and shall include
3 7 information on groundwater resources in the area and the
3 8 potential for their use as a drinking water source. The bill
3 9 also provides that when federal guidelines are used, they
3 10 shall not include guidelines relating to drinking water
3 11 capacity needs in time of drought.

3 12 The bill provides that a landowner affected by the proposed
3 13 condemnation action may request a second review or analysis
3 14 and the engineer shall be selected by a committee of private
3 15 landowners affected by the proposed condemnation action. The
3 16 bill further provides that the acquiring agency shall pay for
3 17 the services of such an engineer. The bill further provides
3 18 that an affected landowner may request a public hearing,
3 19 conducted by a neutral party, on the influence of a federal
3 20 agency on the lake project, on the proposed condemnation
3 21 actions, and on the use of federal guidelines in analyzing
3 22 drinking water capacity needs. The services of the person
3 23 conducting the hearing shall be paid by the acquiring agency.

3 24 The bill takes effect upon enactment and applies to
3 25 projects or condemnation proceedings pending or commenced on
3 26 or after that date.

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